

Application No.: 09/771054

Case No.: 56147US002

REMARKS

Reexamination and reconsideration of the application are respectfully requested.

The Applicant's objects to the application of finality in the recent Office Action. The prior art reference Chang was one, which clearly was of record in the present application in that it was used to previously reject the composition claims initially presented. The compositional scope of the previously presented claims was not changed in a manner which necessitated this renewal grounds for rejection based on Chang. If Chang was of concern, which it should not be, it clearly should have been applied to the claims in the first office action. The only change in the claimed subject matter was to the minor variations of the uses to which the application method claims are directed to address the claim rejections under 35 U.S.C. 101 and 112. In that Chang was clearly of record and had been previously applied the application of a final rejection to the previously presented claims reintroducing Chang as a prior art rejection is clearly inappropriate and requested withdrawn.

The rejection over Chang is also inappropriate in that Applicant's are not claiming a new use, function or property for a composition as per the in re Best case cited or the referred to MPEP sections 112.01 and 2141.02. In re Best is use in MPEP Section 2112.01 purely is relation to compositional product and apparatus claims not to method of using claims, which the present application is directed. Applicants' are not trying to reclaim a known composition. Rather what is claimed is an entirely new method of using what is alleged to be a known composition disclosed in Chang. In MPEP section 2141.02 the Examiner should be paying attention to is the section entitled DISTILLING THE INVENTION DOWN TO A "GIST" OR "THRUST" OF AN INVENTION DISREGARDS "AS A WHOLE" REQUIREMENT. The Examiner is re-characterizing the method claims to be merely a method to coat surfaces which is taught in which is allegedly the same as re-characterized teaching of Chang. However applicants are not claiming a method to generically coat "surfaces" and the teachings of Chang not to use their composition to generically coat surfaces. The object of Chang is to permanently modify the surface of a porous coating by penetrating the porous coating with it's composition and then